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6
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11 Attorneys for Debtor and Debtor-in-Possession,
John Jean Bral

12 **UNITED STATES BANKRUPTCY COURT**
13 **CENTRAL DISTRICT OF CALIFORNIA**
14 **SANTA ANA DIVISION**

15 In re
16 JOHN JEAN BRAL,
17 Debtor and
Debtor-in-Possession.

19 STEWARD FINANCIAL LLC,
20 Plaintiff,

21 v.

22 JOHN JEAN BRAL,
23 Defendant.

Case No. 8:17-bk-10706-ES

Chapter 11

Adv. Case No. 8:17-ap-01095-ES

**DEFENDANT'S OPPOSITION TO
EMERGENCY MOTION FOR ORDER
CONTINUING HEARING ON MOTION
TO DISMISS FIRST AMENDED
COMPLAINT**

Hearing Date and Time:

DATE: September 19, 2019

TIME: 2:00 p.m.

**PLACE: Courtroom 5C
411 West Fourth Street
Santa Ana, California 92701**

MOTION TO DISMISS

1 **TO THE HONORABLE ERITHE SMITH, UNITED STATES BANKRUPTCY**
2 **JUDGE, STEWARD FINANCIAL LLC, AND ALL OTHER INTERESTED PARTIES:**

3 John Jean Bral, the debtor and debtor-in-possession in the above-captioned chapter 11 case
4 and the defendant herein (the “Debtor” or “Mr. Bral”), hereby submits the following *Opposition* to
5 the *Emergency Motion* filed by Steward Financial, LLC (“Steward”) to continue, a *second time*, the
6 hearing on the Debtor’s *Motion To Dismiss* (the “Motion to Dismiss”) the *First Amended*
7 *Complaint to Determine Non-Dischargeability of Debt Under Bankruptcy Code Section 523* (the
8 “Complaint”) to accommodate the schedule of Steward’s co-counsel in this matter, Gary E.
9 Klausner (“Mr. Klausner”).

10
11 **I. OPPOSITION.**

12 The hearing on the Motion to dismiss was originally set for August 8, 2019, at 2:00 p.m. In
13 July, 2019, Mr. Bral and his counsel accommodated the schedule of Mr. Klausner and stipulated to
14 continue the hearing on the Motion to Dismiss to September 19, 2019 (the “First Continuance
15 Stipulation”). A copy of this stipulation is attached hereto as Exhibit “A”.

16 The Court graciously agreed to the First Continuance Stipulation and the matter was in fact
17 continued for over a month and the parties filed their respective pleadings in accordance with the
18 agreed upon schedule therein. The matter is now fully briefed and no dispute exists as to the facts.
19 All that remains for resolution are issues of law.

20 Last week, Mr. Klausner contacted Alan J. Friedman and advised him that he was
21 requesting a *second* continuance to accommodate his schedule in another case. This is not a small
22 matter. Mr. Bral struggles to pay his bills every month and the pendency of Steward’s meritless
23 fraud claim is a very heavy psychological and reputational weight on his back. He is entitled to his
24 “fresh start”, yet he cannot obtain that statutory relief without a resolution of the Motion to
25 Dismiss.

26 Notwithstanding the imposition upon Mr. Bral and his counsel, Mr. Friedman tried to
27 accommodate Mr. Klausner by proposing that both parties simply stipulate to a resolution of the
28 matter on the papers. Mr. Klausner refused. In case where no facts are disputed and only issues of

1 law are presented, Mr. Klausner insists that both he and Thomas Lallas, his co-counsel must appear
2 in Court and belabor the matter, and spend another ten thousand dollars in legal fees. Respectfully,
3 this is a contrivance.

4 This Court can and should simply rule on the matter on the papers filed by the parties, since
5 they are both clear and comprehensive. This will spare both parties the cost and expense of yet
6 another unnecessary hearing and it will avoid what this Court is fully aware will occur: The oral
7 repetition, again, and again, and again, of matters that have already been presented to the Court ad
8 nauseum in the pleadings.

9 In a second effort to accommodate Mr. Klausner, Mr. Friedman agreed to a short
10 continuance of the hearing on the Motion to Dismiss to October 3, 2019, a date that Mr. Klausner
11 believed was available on the Court's calendar. However, this date was not in fact available. The
12 next available date is in November.

13 Mr. Bral accommodated Mr. Klausner's schedule once. The parties agreed this second
14 hearing should proceed on September 19, 2019. Mr. Bral should not have to wait another two
15 months just so, not one, but two law firms representing a developer worth hundreds of millions can
16 appear in Court, at their convenience, and belabor matters that have already been fully briefed.

17 This is not a case where Steward is a small outfit represented by a sole practitioner.
18 Steward, aka Barry Beitler, is one of the wealthiest developers in Southern California. He is
19 represented by two law firms - Levene, Neale, Bender, Yoo & Brill, LLP and Levy, Small &
20 Lallas, LLP. *Together, these two firms have over thirty lawyers.* Yet, in a matter that has been fully
21 briefed and that presents no issues of facts, these law firms not only insist on a hearing on these
22 purely legal issues, they insist that Mr. Klausner is the only one who can handle the hearing, and it
23 must be held at his convenience. This is not only untenable it is offensive.

24 The discharge of a financially impecunious individual debtor is not a second class matter.
25 Mr. Klausner and his client were granted a continuance. Mr. Bral's life should not be kept on hold
26 simply to accommodate not their needs, but their personal whims. The bankruptcy courts and
27 district court routinely resolve matters such as the instant one without a hearing. That should be the
28 result in this case.

1 If Mr. Klausner had an illness or a family emergency and the hearing at issue presented
2 complicated evidentiary issues, *this opposition would never have been filed*. However, the matter in
3 contest is a Motion to Dismiss, where all well-pleaded facts are accepted by the Court, and where
4 the legal issues presented are clear and have been the subject of extensive briefing. As stated in the
5 Reply, the legal defects in Steward case cannot be resolved or mitigated through the inevitable oral
6 “double team” presentation by Mr. Klauser and Mr. Lallas would like to present. Steward’s
7 problem is \$4.0 million is more than \$3.0 million and that math is not going to change no matter
8 who appears or what they have to say.

9 Respectfully, the Emergency Motion should be denied. Steward agreed to hearing on
10 September 19, 2019. If it cannot make that hearing, Mr. Bral and his counsel will accommodate
11 them by agreeing the matter can be submitted on the papers.

12 Respectfully submitted,

13 Dated: September 17, 2019

PACHULSKI STANG ZIEHL & JONES LLP

14
15 By: /s/ William N. Lobel
16 William N. Lobel
17 Special Reorganization Counsel for John J.
Bral, Debtor and Debtor-in-Possession

18 Dated: September 17, 2019

SHULMAN HODGES & BASTIAN LLP

19
20 By: /s/ Alan J. Friedman
21 Alan J. Friedman
22 Attorneys for John J. Bral, Debtor and Debtor-
23 in-Possession
24
25
26
27
28

EXHIBIT "A"

GARY E. KLAUSNER (SBN 69077)
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MARK D. HURWITZ (SBN 151159)
LEVY, SMALL & LALLAS
A Partnership Including Professional Corporations
815 Moraga Drive
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Attorneys for Creditor Steward Financial LLC

**UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
SANTA ANA DIVISION**

In re:

JOHN JEAN BRAL,

Debtor and Debtor-in-Possession.

Steward Financial LLC,

Plaintiff,

vs.

John Jean Bral,

Defendant.

Case No. 8:17-bk-10706-ES

Adv. Proc. No. 8:17-ap-01095-ES

Chapter 11

**STIPULATION TO CONTINUE HEARING
AND RELATED DEADLINES ON
DEBTOR'S MOTION FOR AN ORDER
DISMISSING WITH PREJUDICE ALL
CLAIMS FOR RELIEF IN THIS
ADVERSARY PROCEEDING**

Current Hearing Schedule:

Date: August 8, 2019
Time: 2:00 p.m.
Place: Courtroom 5A
411 West Fourth Street
Santa Ana, CA 92701

Proposed New Hearing Schedule:

Date: September 19, 2019
Time: 2:00 p.m.
Place: Same as above

1 Steward Financial LLC (“Steward”), on the one hand, and John Jean Bral (the “Debtor”,
2 and collectively with Steward, the “Parties”), on the other hand, hereby stipulate, subject to the
3 Court’s approval, to the following:

4 **RECITALS**

5 1. On June 19, 2019, the Debtor filed that certain *Defendant’s Motion For Order*
6 *Dismissing With Prejudice All Claims For Relief In First Amended Complaint To Determine Non-*
7 *Dischargeability Of Debt Under Bankruptcy Code Section 523 Pursuant To F.R.C.P. 12(b)(6)*
8 (the “Motion”) [Adversary Docket No. 79]. The current deadline for Steward to oppose the
9 Motion is July 25, 2019, and a hearing on the Motion is currently scheduled on August 8, 2019.

10 2. The Parties have met and conferred on the Motion and the hearing schedule on the
11 Motion. Due to the unavailability of Steward’s lead bankruptcy counsel during the time that
12 Steward’s opposition to the Motion is due, and due to the Parties’ desire to determine whether
13 further settlements may be achieved in this case, including, in connection with the Motion and
14 this adversary proceeding, the Parties have agreed, subject to Court approval, to continue the
15 hearing on the Motion to September 19, 2019, but not later, as set forth herein.

16 **AGREEMENT**

17 The hearing on the Motion shall be continued to September 19, 2019, at 2:00 p.m., but not
18 later. The deadline for Steward to file an opposition to the Motion shall be August 15, 2019. The
19 deadline for the Debtor to file a reply to Steward’s opposition to the Motion shall be September 5,
20 2019.

21 Dated: July 12, 2019

LEVENE, NEALE, BENDER, YOO & BRILL L.L.P.

22
23 By: /s/ Krikor J. Meshefejian
24 GARY E. KLAUSNER
KRIKOR J. MESHEFEJIAN

25 Dated: July 12, 2019

26 LEVY, SMALL & LALLAS
A Partnership Including Professional Corporations

By: _____

TOM LALLAS
MARK D. HURWITZ

Attorneys for Steward Financial LLC

Dated: July __, 2019

SHULMAN HODGES & BASTIAN LLP

By: _____

ALAN J. FRIEDMAN

Dated: July __, 2019

PACHULSKI STANG ZIEHL & JONES LLP

By: _____

WILLIAM N. LOBEL

Attorneys for John Jean Bral

By: _____
TOM LALLAS
MARK D. HURWITZ

Attorneys for Steward Financial LLC

Dated: July 11, 2019

SHULMAN HODGES & BASTIAN LLP

By: _____
ALAN J. FRIEDMAN

Dated: July __, 2019

PACHULSKI STANG ZIEHL & JONES LLP

By: _____
WILLIAM N. LOBEL

Attorneys for John Jean Bral

By: _____
TOM LALLAS
MARK D. HURWITZ

Attorneys for Steward Financial LLC

Dated: July __, 2019

SHULMAN HODGES & BASTIAN LLP

By: _____
ALAN J. FRIEDMAN

Dated: July 11, 2019

PACHULSKI STANG ZIEHL & JONES LLP

By:  _____
WILLIAM N. LOBEL

Attorneys for John Jean Bral

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is: 10250 Constellation Boulevard, Suite 1700, Los Angeles, CA 90067

A true and correct copy of the foregoing document entitled: **STIPULATION TO CONTINUE HEARING AND RELATED DEADLINES ON DEBTOR'S MOTION FOR AN ORDER DISMISSING WITH PREJUDICE ALL CLAIMS FOR RELIEF IN THIS ADVERSARY PROCEEDING** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On **July 12, 2019**, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

- Alan J Friedman afriedman@shbllp.com, lgauthier@shbllp.com
- Beth Gaschen bgaschen@wglp.com,
kadele@wglp.com; vrosales@wglp.com; cbmeeker@gmail.com; cyoshonis@wglp.com
- Mark D Hurwitz mhurwitz@lsl-la.com, dsmall@lsl-la.com, kfinn@lsl-la.com
- Gary E Klausner gek@lnbyb.com
- William N Lobel wlobel@pszjlaw.com,
nlockwood@pszjlaw.com; jokeefe@pszjlaw.com; banavim@pszjlaw.com
- Krikor J Meshefejian kjm@lnbrb.com
- United States Trustee (SA) ustpregion16.sa.ecf@usdoj.gov

2. SERVED BY UNITED STATES MAIL: On **July 12, 2019**, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Hon. Erithe A. Smith
United States Bankruptcy Court
Ronald Reagan Federal Building and Courthouse
411 West Fourth Street, Suite 5040 / Courtroom 5A
Santa Ana, CA 92701-4593

☐ Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on **July 12, 2019**, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

July 12, 2019

Damon Woo

/s/ Damon Woo

Date

Type Name

Signature

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is 100 Spectrum Center Drive, Suite 600, Irvine, CA 92618.

A true and correct copy of the foregoing document entitled (*specify*): **DEFENDANT'S OPPOSITION TO EMERGENCY MOTION FOR ORDER CONTINUING HEARING ON MOTION TO DISMISS FIRST AMENDED COMPLAINT** will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (*date*) September 17, 2019 I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

☒ Service information continued on attached page.

2. SERVED BY UNITED STATES MAIL:

On (*date*) _____, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page.

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (*state method for each person or entity served*): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (*date*) September 17, 2019, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

SERVED VIA MESSENGER/ATTY SERVICE

The Honorable Erithe A. Smith
U.S. Bankruptcy Court
Ronald Reagan Federal Building
Bin by 5th floor elevators
411 W. Fourth Street
Santa Ana, CA 92701

☒ Service information continued on attached page.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

September 17, 2019

Date

Lori Gauthier

Printed Name

/s/ Lori Gauthier

Signature

1. SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (“NEF”)

- **Alan J Friedman** afriedman@shbllp.com, lgauthier@shbllp.com
- **Beth Gaschen** bgaschen@wgllp.com,
kadele@wgllp.com;vrosales@wgllp.com;cbmeeker@gmail.com;cyoshonis@wgllp.com
- **Mark D Hurwitz** mhurwitz@lsl-la.com, dsmall@lsl-la.com,kfinn@lsl-la.com
- **Gary E Klausner** gek@lnbyb.com
- **William N Lobel** wlobel@pszjlaw.com,
nlockwood@pszjlaw.com;jokeefe@pszjlaw.com;banavim@pszjlaw.com
- **Krikor J Meshefejian** kjm@lnbrb.com
- **United States Trustee (SA)** ustpregion16.sa.ecf@usdoj.gov